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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,399	06/23/2003	Jiang Yang	J6849(C)	9183
201	7590	06/17/2005	EXAMINER	
UNILEVER INTELLECTUAL PROPERTY GROUP 700 SYLVAN AVENUE, BLDG C2 SOUTH ENGLEWOOD CLIFFS, NJ 07632-3100			ELHILO, EISA B	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,399

Applicant(s)

YANG, JIANG

Examiner

Eisa B. Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/23/03&10/18/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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Claims 1-9 are pending in this application.

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 103*

1 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kravtchenko et al. (WO 02/051367A1). The US Patent Application Publication No. 2005/0086745 A1 is used in this rejection as an English translation of the WO Patent No. 02/051367A1.

Kravtchenko et al. (US' 367 A1) teaches a method for dyeing hair comprising applying to the hair a dyeing composition comprising from 0.005 to 8% of oxidation dyes (see page 7, paragraph, 0115), oxidizing composition comprising hydrogen peroxide in the amount of 7.5% (see page 17, paragraph, 0286) and an amphiphilic copolymer consists of 2- acrylamido-2-methyl-2-propanesulfonic acid of a formula (II) in which X<sup>+</sup> is a proton, an alkaline-earth metal cation or an ammonium ion (see page 18, claim 38) and a unit of formula (III), in which X denotes an integer ranging from 3 to 100 as claimed in claims 2-3 and 6-8 (see page 19, claim 38), wherein the amount of the copolymer is 0.1 to 5%, which is within the claimed range as claimed in claim 1 and overlapped with the claimed range as claimed in claim 5 (see page 5, paragraph, 0079) and wherein the amphiphilic copolymer is presented in the dyeing composition or in the oxidizing composition as claimed in claim 1 (see page 20, claim 68).

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The instant claims differ from the reference by optimizing the relative weight ratio of the colorant (dyeing composition) and the developer (oxidizing composition) to be of 10:1 to 1:10.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition by optimizing the weight ratio of the colorant to the developer because the reference clearly teaches the percentage amounts of these dyeing ingredients which are within the claimed ranges and thus, a person of the ordinary skill in the art would have been motivated to optimize the weight ratio of these ingredients in order to get the maximum effective amounts and would expect such a composition to have similar properties to those claimed, absent unexpected results.

With respect to claims 4 and 9, it would have been obvious to one having ordinary skill in the art at the time of the invention to formulate a hair dyeing composition comprising the claimed alkoxylated taurate copolymer of acryloldimethyltaurates/ beheneth-25 methacrylate because the similarities in chemical structure between the prior art and the claimed compounds and which have similar utilities establishes a prima facie case of obviousness. (In re Payne, 203VSPQ 245) and, thus, a person of the ordinary skill in the art would expect such a composition to have similar properties, absent, unexpected results.

### ***Conclusion***

2 The remaining references listed on from 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above. Further prior art made of record and not relied upon is considered pertinent to applicant's disclosure. WO 02/051369) and (WO 02/051366).

Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eisa Elhilo  
Patent Examiner  
Art Unit 1751

June 14, 2005